

Claims 1-31 are pending in this reissue application. Claims 28-31 have been added. Support for claims 28-31 can be found in the specification, as discussed below. Thus, no new matter has been added.

The claims of the '121 patent are directed to DNA encoding a Gax protein, vectors containing this DNA, host cells transformed with these vectors, and processes for preparing a Gax protein. The *Gax* gene belongs to a class of genes called the homeobox genes, which encode a class of transcription factors that influence embryogenesis, tissue specific gene expression, and cell differentiation. (Column 4, lines 28-32). The homeobox genes share a conserved nucleotide sequence referred to as the "homeobox," which encodes a 61 amino acid helix-turn-helix motif that binds to regulatory sequences with a high adenine and thymine content. (Column 4, lines 32-36). The homeobox of the rat Gax protein extends from amino acid residues 185-245 (Column 5, lines 33-36), which corresponds to nucleotides 749-931 of SEQ ID NO:1, as set forth in Figure 1.

During prosecution of the patent that gave rise to the '121 patent, applicants inadvertently omitted a claim directed to a DNA molecule comprising nucleotides 749-931 of SEQ ID NO:1. New claim 28 is directed to this embodiment of applicants' invention. In accordance with 37 C.F.R. § 1.121 (b) (2) (iii), support for claim 28 is found in the specification, for example, at column 5, lines 24-36.

Claims 7 - 9 are directed to compositions of matter that have been examined by the PTO and are fully supported by the disclosure of the specification. Claims 29-31 are directed to processes of using the compositions of claims 7-9. More specifically, claims 29, 30 and 31 are directed to processes for preparing host cells for producing Gax protein. These processes comprise providing a host cell and a vector according to claims 7, 8 and

9, and introducing said vector into said host cell under conditions suitable to achieve expression of the DNA molecule contained in the vector and encoding a Gax protein. In accordance with 37 C.F.R. § 1.121 (b) (2) (iii), support for claims 29-31 can be found in the specification, including the Example entitled "Production of Recombinant Proteins," which spans columns 12-13, and in issued claims 12-14. Therefore, the processes of claims 29-31 and the composition of matter of claims 7-9 are contained in the same application.

Claim 7 was also amended to correct a typographical error. More specifically, in line 1 of claim 7, "mol" was replaced by "molecule." This typographical error is not being relied on as a basis for seeking reissue.

#### CONCLUSION

In view of the foregoing amendments and remarks, the patent owner respectfully requests reconsideration and reexamination of this application and timely allowance of the pending claims.

If there are any fees due in connection with the filing of this Preliminary Amendment not already accounted for, please charge the fees to our Deposition Account No. 03-0172.

Respectfully submitted,

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